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Paper No. 14

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ALEXANDRIA VA 22314

In re Application of
Takenori Hirose, et al.
Application No. 09/774,723
Filed: February 1, 2001
For: **POLISHING PAD SURFACE CONDITION
EVALUATION METHOD AND AN
APPARATUS THEREOF AND A METHOD OF
PRODUCING A SEMICONDUCTOR DEVICE**

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed May 7, 2004 which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The petition is **GRANTED**.

The application was abandoned for failure to respond in a timely and effective manner to the Office Action mailed August 1, 2003. A Notice of Abandonment was mailed on May 5, 2004.

Petitioner asserts that a proper response was timely filed on January 2, 2004. In support of the petition, petitioner has submitted a copy of the applicant's response along with a copy of a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on January 2, 2004 and a copy of a petition for two month extension of time.

The original correspondence filed was not matched with the file and cannot be located. However, M.P.E.P. § 503 states, “[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO.” Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center's technical support staff for entry of the amendment submitted with the petition. The two month extension of time has been charged to the credit card number provided. From there, the application file will be forwarded to the examiner for appropriate action in due course.

Ewayne Bost
Special Program Examiner
Technology Center 2600
Communications